

Penerapan Customer Due Diligence terhadap Investor Reksadana: Sebuah Perbandingan Penerapan di Indonesia dan Amerika Serikat = The Implementation of Customer Due Diligence on Mutual Fund Investors: A Comparative Study between Indonesia and the United States

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Abstrak

Sebagai Penyedia Jasa Keuangan, Manajer Investasi dan Bank Kustodian diwajibkan menerapkan customer due diligence terhadap nasabahnya. Dalam satu rangkaian skema investasi reksa dana, apakah penerapan customer due diligence dilakukan masing-masing oleh Manajer Investasi dan Bank Kustodian, atau oleh Manajer Investasi atau Bank Kustodian saja. Penerapan customer due diligence oleh Manajer Investasi dan Bank Kustodian terhadap investor reksa dana ini menjadi sesuatu yang menarik untuk dikaji dan teliti, serta bagaimana dengan isu kepastian hukumnya terkait dengan aturan yang ada selama ini. Dengan menggunakan metode penelitian doktrinal dengan pendekatan micro comparison, penulis berfokus pada perbandingan antara Indonesia dan Amerika Serikat untuk menjawab pertanyaan tentang pengaturan penerapan customer due diligence terhadap investor reksa dana di kedua negara tersebut, serta pengaturan manakah yang ideal untuk diterapkan di Indonesia. Hasil penelitian menunjukkan bahwa di Indonesia, customer due diligence dilakukan oleh Manajer Investasi yang kemudian didokumentasikan dalam sistem S-INVEST yang dikelola oleh Kustodian Sentral Efek Indonesia (KSEI). Data ini kemudian digunakan oleh Bank Kustodian. Baik Indonesia maupun Amerika Serikat telah mengadopsi rekomendasi Financial Action Task Force (FATF) untuk mencegah pencucian uang dan pendanaan terorisme, termasuk penerapan enhanced due diligence bagi nasabah berisiko tinggi seperti politically exposed persons (PEP) dan transaksi lintas batas yang berisiko tinggi. Secara umum, pengaturan customer due diligence di Indonesia sudah cukup ideal dan sesuai dengan rekomendasi Financial Action Task Force (FATF), bahkan dalam beberapa hal pengaturan penerapan customer due diligence di Indonesia jauh lebih lengkap dan efektif apabila dibandingkan dengan Amerika Serikat, antara lain dengan adanya Pengelolaan Investasi secara Terpadu (S-INVEST) dan Layanan Administrasi Prinsip Mengenali Nasabah. Hal ini inline dengan hasil Mutual Evaluation Review FATF terhadap Indonesia, dimana khusus terkait dengan technical compliance (kepatuhan teknis) terhadap Rekomendasi 10 tentang customer due diligence, Indonesia memperoleh rating largely compliant (LC).

.....As Financial Service Providers, Investment Managers and Custodian Banks are required to implement customer due diligence on their clients. Within the framework of a mutual fund investment scheme, should customer due diligence be conducted separately by both the Investment Manager and Custodian Bank, or by either the Investment Manager or Custodian Bank alone? The implementation of customer due diligence by Investment Managers and Custodian Banks for mutual fund investors is an interesting topic to study and examine, particularly regarding the legal certainty of the existing regulations. Using doctrinal research methods with a micro-comparison approach, the author focuses on comparing Indonesia and the United States to answer questions about the regulation of customer due diligence implementation for mutual fund investors in both countries, and which regulation is ideal to be applied in Indonesia. The research findings

indicate that in Indonesia, customer due diligence is carried out by the Investment Manager and then documented in the S-INVEST system managed by the Indonesian Central Securities Depository (KSEI). This data is then used by the Custodian Bank. Both Indonesia and the United States have adopted the recommendations of the Financial Action Task Force (FATF) to prevent money laundering and terrorism financing, including the implementation of enhanced due diligence for high-risk clients such as politically exposed persons (PEP) and high-risk cross-border transactions. In general, the customer due diligence regulations in Indonesia are quite ideal and in line with the FATF recommendations. In some aspects, the customer due diligence implementation regulations in Indonesia are even more comprehensive and effective compared to the United States, particularly with the presence of the Integrated Investment Management (S-INVEST) system and the Customer Due Diligence Administration Service. This is consistent with the results of the FATF Mutual Evaluation Review of Indonesia, where Indonesia received a largely compliant (LC) rating regarding technical compliance with Recommendation 10 on customer due diligence.